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March 31, 2021

By ECF

Hon. Richard J. Sullivan
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: Nnebe v. Daus, No. 06-CV-04991 (RJS)
Stallworth v. Joshi, No. 17-CV-07119 (RJS)

Dear Judge Sullivan:

This office represents defendants in the above-captioned actions. In preparing a response to plaintiffs' motion for attorney fees, which is due on April 13, 2021, we identified letters regarding the status of a named plaintiff that we believe are highly relevant to assertions made in plaintiffs' reply memorandum of law in support of their pending motion to certify a class. Defendants request an opportunity to place the letters on the record in whatever manner the Court deems appropriate, including by letter submission or sur-reply.

Respectfully,

/s/

Edward Murray
Amy J. Weinblatt

While a sur-reply is not ordinarily permitted on a motion for class certification, courts have the discretion to allow them where necessary to rebut arguments or facts raised for the first time in a reply brief. See, e.g., *Grocery Haulers, Inc. v. C & S Wholesale Grocers, Inc.*, No. 11-cv-3130 (DLC), 2012 WL 4049955, at *6 (S.D.N.Y. Sept. 14, 2012). Given the vagueness of Defendants' letter, it is by no means clear whether Defendants seek to rebut such arguments/facts, or whether they merely hope to assert arguments that could have been raised months ago in their opposition brief. Accordingly, IT IS HEREBY ORDERED THAT, by April 6, 2021, Defendants shall submit a letter explaining why they were unable to include the above-referenced letters in their opposition to Plaintiffs' motion for class certification.

SO ORDERED
Dated: April 3, 2021
New York, New York

RICHARD J. SULLIVAN
UNITED STATES CIRCUIT JUDGE
Sitting by Designation